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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,717	08/09/2001	Richard Fischbeck	00-106	6856
24124	7590	02/02/2006	EXAMINER	
BOHAN, MATHERS & ASSOCIATES, LLC			A, PHI DIEU TRAN	
PO BOX 17707			ART UNIT	
PORTLAND, ME 04112-8707			PAPER NUMBER	

3637

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/928,717	<b>Applicant(s)</b> FISCHBECK, RICHARD	
	<b>Examiner</b> Phi D. A	<b>Art Unit</b> 3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-38 and 42-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-38 and 42-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 32- are rejected under 35 U.S.C. 102(b) as being anticipated by Mohr (1009434).

Mohr shows a structure comprising a plurality of conical elements (2), each conical element of the plurality of conical elements having a cone base, a cone wall and a vertex, the cone wall defined by straight lines (figure 3) that extend from the base and intersect each other at the vertex, the plurality of conical elements being arranged to form a shell such that at least one straight line of the cone wall of a first conical element extends substantially parallel to at least one straight line in the cone wall of an adjacent conical element so as to form a straight strut between the vertex of the first conical element and the adjacent conical element, the conical elements being arranged such that a distance and a direction of displacement between any two cone bases of adjacently placed conical elements being infinitely variable between a minimum limit and a maximum limit (the limits not yet known), the conical element being a circular.

4. Claims 32-38, 42, 44-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Henderson (4794742).

Henderson shows a structure comprising a plurality of conical elements (5a, 5b, figure 3), each conical element of the plurality of conical elements having a cone base, a cone wall and a vertex, the cone wall defined by straight lines that extend from the base and intersect each other at the vertex, the plurality of conical elements being arranged to form a shell such that at least one straight line of the cone wall of a first conical element extends substantially parallel to at least one straight line in the cone wall of an adjacent conical element so as to form a straight strut between the vertex of the first conical element and the adjacent conical element (figure 6, 15a), the conical elements being arranged such that a distance and a direction of displacement between any two cone bases of adjacently placed conical elements being infinitely variable between and minimum limit and a maximum limit (the limits not yet known), the conical element being a circular cone and said cone base being a circular base, the conical elements being placed in an overlapping arrangement (figure 15a) with a portion of the cone wall said adjacent conical element so as to form said shell, the conical elements being arranged such that the vertex of the circular cone points outward from the shell, the portion of the circular base of the first circular cone overlaps a portion of said cone wall of at least three adjacent conical elements, so as to form the shell having a closed surface (figure 15a), the overlapping arrangement further includes an overlap of a portion of the circular base of the first conical element with a portion of the cone wall of at least a second conical element, a third conical element, and a fourth conical element, a first amount of overlap between the first conical element and the second conical element forming a first strut distance and direction between the vertexes of the first conical element and the second conical element, a second amount of overlap between the first conical element and the third conical element forming a second strut distance and direction between the vertexes of the

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first conical element and the third conical element, a third amount of overlap between the first conical element and the fourth conical element forming a third strut distance and direction between the vertexes of the first and fourth conical element, the first strut distance and direction being any distance and direction between the minimum and maximum limits (the limits are not yet known), the second strut distance and direction being any distance and direction between the maximum and minimum limits, the third strut distance is any distance and direction between the minimum and maximum limits, an opening is formed in the shell to provide access to an inner space of the shell (figure 19b, 19a), the conical element having an element length defined by a length of the cone wall from the cone base to the vertex and wherein the maximum limit is slightly less than a sum of the element lengths of any two adjacent conical elements, the conical element having an element length defined by a length of the cone wall from the cone base to the vertex and wherein the minimum limit is slightly greater than one-half of a sum of the element lengths of any two adjacent conical elements, the conical element having an angular deficit  $\alpha$  that defines an amount of taper of the cone wall between the cone base and the vertex, the angular deficit  $\alpha$  of the conical element varies in magnitude from the angular deficit  $\alpha$  of an adjacent conical element (col 26 lines 1-10), the plurality of conical elements including two groups of conical elements, each group having a different magnitude of said angular deficit  $\alpha$ , a skin being placed over the shell, the conical elements being arranged with the vertex of some of the elements facing inward and with the vertex of other ones of the elements facing outward, the conical elements being constructed of plywood, sheet metal, or plastic or other materials (col 2 lines 10-15), fastening means (col 14 lines 42-46) for attaching the elements to

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one another, the fastening means including screws, bolts, adhesives, and other suitable connection mechanism.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henderson (4794742) in view of Farnsworth III (3841039).

Henderson shows all the claimed limitations except for the conical elements of the two groups being arranged in an alternating pattern.

Farnsworth III discloses conical elements (31, 32) of two groups of different magnitude of angular deficit Alpha being arranged in an alternating pattern.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Henderson's structure to show the conical elements of the two groups being arranged in an alternating pattern as taught by Farnsworth III because it would allow for easy formation of a modified shell surface, and easy formation would allow for shell to fit a special shaped building structure which must conform to variable land terrain (col 26 lines 35-39).

***Response to Arguments***

7. Applicant's arguments with respect to claims 32-38, 42-47 have been considered but are moot in view of the new ground(s) of rejection.

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***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different conical shell structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

1/26/06